

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ASIAN AMERICANS ADVANCING
JUSTICE–ATLANTA; et al.,
Plaintiffs,

v.

No. 1:21-cv-1333-JPB

Brad RAFFENSPERGER, in his official capacity as the Georgia Secretary of State; et al.,
Defendants,

REPUBLICAN NATIONAL COMMITTEE; et al.,
Intervenor-Defendants.

**INTERVENORS’ MOTION FOR LEAVE TO FILE A
MOTION TO DISMISS ON JULY 12, 2021 AND
ACCOMPANYING MEMORANDUM OF LAW**

Movants ask this Court for permission to file—no later than July 12, 2021—a motion to dismiss Plaintiffs’ amended complaint. Intervenor’s sought the parties’ positions on June 17. The State Defendants responded on June 17 that they consent to this motion. Plaintiffs responded today that they do not oppose the motion.

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Intervenor’s filed their motion to intervene on April 9, 2021, attaching a proposed answer to Plaintiffs’ original complaint. *See* Docs 20, 20-2. But Plaintiffs amended their complaint on April 27, 2021. *See* Doc. 27. Under the Federal Rules, a motion to dismiss the amended complaint was due “within the time

remaining to respond to the original pleading or within 14 days ..., whichever is later.” Fed. R. Civ. P. 15(a)(3). It is unclear whether or how this rule applies to Intervenor, who were not parties to this case until their intervention was granted on June 4. *See* Doc. 39.

Though the due date is unclear, Intervenor would like to file a motion to dismiss the amended complaint. Their motion will not repeat arguments in the State’s motion, but will raise additional reasons why Plaintiffs have failed to state a claim. Intervenor respectfully ask this Court to give them until July 12 to file that motion.

Allowing Intervenor to file a motion on July 12 will not meaningfully delay this litigation. No hearing has been scheduled on the State’s motion to dismiss. And July 12 is when motions to dismiss are due in *Concerned Black Clergy of Metropolitan Atlanta, Inc. v. Raffensperger*—a related case that will likely be decided alongside this one. *See* Doc. 35, No. 1:21-cv-1728-JPB (N.D. Ga. June 9, 2011). In the coming weeks, moreover, the U.S. Supreme Court will issue its opinion in *Brnovich v. Democratic National Committee*, No. 19-1257. Because that decision will clarify the meaning of section 2 of the Voting Rights Act, additional briefing in this case is inevitable. In all events, if Intervenor cannot file a motion to dismiss on July 12, they could raise all the same arguments by filing a motion for summary judgment on July 12. *See* Fed. R. Civ. P. 56(b) (summary judgment can be sought “at any time”); LR 56.1(d) (similar); *Negri v. Nationwide Mut. Ins. Co.*, 2011 WL 5041214, at *5 (N.D.W. Va.

Oct. 24) (“a motion for summary judgment involv[ing] purely legal questions ... may be decided prior to the conclusion of discovery”).

The more efficient approach is to let Intervenor file a motion to dismiss on July 12. That way, Intervenor will have sufficient time to prepare motions in all the related cases; this Court can consider Intervenor’s arguments alongside the State’s; and the parties can brief how *Brnovich* affects Plaintiffs’ claims.

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For all these reasons, this Court should enter an order allowing Intervenor to file a motion to dismiss on or before July 12, 2021.

Respectfully submitted,

Dated: June 21, 2021

/s/ Cameron T. Norris

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CERTIFICATE OF COMPLIANCE

I certify that this document complies with Local Rule 5.1(B) because it uses 13-point Century Schoolbook.

/s/ Cameron T. Norris

CERTIFICATE OF SERVICE

On June 21, 2021, I e-filed this document on ECF, which will serve everyone requiring service.

/s/ Cameron T. Norris